

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

DAVID FREEMAN,)
Petitioner,)
v.) Civil Action Number
RICHARD F. ALLEN,) 2:06CV122-MHT-WC
Commissioner of the Alabama)
Department of Corrections,)
Respondent.)

RESPONDENT'S MOTION FOR ENLARGEMENT

Comes now Respondent, by and through Troy King, the Attorney General of the State of Alabama, and on behalf of Respondent Richard Allen, respectfully moves this Honorable Court for an enlargement of seven (7) days from January 11, 2007, within which to file its response to Petitioner Freeman's Supplemental Request for Discovery and Motion to Revise Briefing Schedule. As grounds in support of this motion, Respondent offers the following:

1. This is a capital murder case in which the death penalty was imposed.
2. On December 29, 2006, Petitioner Freeman filed a Supplemental Request for Discovery and Motion to Revise Briefing Schedule in this Court. On January 3, 2007, this Court entered an order instructing Respondent to show cause “on or before Friday January 11, 2007” why that motion should not be granted.

3. Because this Court's order provides that Respondent's response to Freeman's motion is due to be filed in this Court on or before "Friday January 11, 2007," Respondent is unsure whether its response is due to be filed today, Thursday January 11, 2007, or tomorrow, Friday January 12, 2007. Out of an abundance of caution, Respondent will assume that its response is due today.

4. On Tuesday January 9, 2007, lead counsel for Respondent in this matter, Cheryl Ann Schuetze, advised the Alabama Attorney General's Office that, due to an unspecified medical condition, she has been ordered by her doctor not to return to work until next Tuesday, January 16, 2007. Accordingly, Mrs. Schuetze is on leave, pursuant to the Family and Medical Leave Act, until January 16, 2007.

5. Because she is on medical leave, Mrs. Schuetze has not been able to complete Respondent's motion in opposition to Freeman's Supplemental Request for Discovery and Motion to Revise Briefing Schedule.

6. For that reason, undersigned counsel requests that this Honorable Court grant Respondent an additional seven days to file its response to Freeman's Supplemental Request for Discovery and Motion to Revise Briefing Schedule.

7. The interests of justice and fairness and this Court's judicial function will best be served by granting the requested enlargement. Likewise, Petitioner Freeman will not be prejudiced if this request is granted.

WHEREFORE, for the foregoing reasons, Respondent respectfully moves this Honorable Court for an enlargement of seven (7) days within which to file its motion in opposition to Petitioner Freeman's Supplemental Request for Discovery and Motion to Revise Briefing Schedule, thus making Respondent's motion due in this Court on or before January 18, 2007.

Respectfully Submitted,

Troy King
Attorney General

/s/ Henry M. Johnson,
Henry M. Johnson
Assistant Attorney General
Counsel for Respondents

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January 11, 2007

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **Mr. Keir M. Weyble, Mr. Christopher Seeds, and Ms. Robin Konrad.**

/s/ Henry M. Johnson,
Henry M. Johnson
Assistant Attorney General
Counsel for Respondents

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